

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

September 22, 2011 Meeting

Agenda Item 3

SUBJECT: Nguyen Residence Site Development Review - (PA2011-129)
1401 Dolphin Terrace
▪ Site Development Review No. SD2011-001

APPLICANT: Tien and Amy Nguyen

PLANNER: Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

PROJECT SUMMARY

A site development review to allow for the construction of 16 caissons for safety and slope stability for an existing single-family house and accessory structures. The project would allow the proposed caissons to encroach a maximum 15 feet into Development Area C.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Approve Site Development Review No. SD2011-001, to allow the proposed caissons, subject to the findings and conditions of approval in the draft resolution (Attachment No. PC 1).

INTRODUCTION

Project Setting

The subject property is located within the Irvine Terrace neighborhood and is bounded by Dolphin Terrace to the north and Bayside Drive to the south. Single-family residential properties are located to the east and west. The property is rectangular in shape, 13,081 square feet (approximately 0.3 acres) in area, and slopes downward toward Bayside Drive. The property is developed with a 9,337-square-foot single-family residence, patio terrace, fountain, and other accessory structures along the view side of the subject property.

VICINITY MAP



GENERAL PLAN



ZONING



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	RS-D (Single-Unit Residential Detached)	R-1, B (Single-Unit Residential, Bluff Overlay)	Single-unit residential dwellings
NORTH	RS-D (Single-Unit Residential Detached)	R-1 (Single-Unit Residential)	Single-unit residential dwellings
SOUTH	RM (Multiple-Unit Residential) and PI (Private Institutions)	RM (Multi-Unit Residential) and PI (Private Institutions)	Multiple-unit residential dwellings and Bayside Marina
EAST	RS-D (Single-Unit Residential Detached)	R-1, B (Single-Unit Residential, Bluff Overlay)	Single-unit residential dwellings
WEST	RS-D (Single-Unit Residential Detached)	R-1, B (Single-Unit Residential, Bluff Overlay)	Single-unit residential dwellings

Background and Description

The original house was demolished in 2001 and replaced with a 9,337-square-foot single family home with a 1,024-square-foot balcony. Prior to the adoption of the current Zoning Code, development on the bluff side of Dolphin Terrace was required to comply with the setback limitations placed on the tract by Variance No. 162. Refer to Attachment No. PC 3. These setbacks have been superseded by the Bluff Development Overlay provisions in the Zoning Code.

A patio terrace and on-grade stairway were developed just below the residence on the sloping portion of the lot. A geotechnical study indicates that these improvements and slope are showing signs of distress and that remedial mitigation is necessary.

The bluff development overlay implements General Plan policies which require construction to comply with the predominant line of existing development. Section 20.28.040 (Bluff (B) Overlay District) establishes three development areas: Development Area A allows for the construction of principal and accessory structures, Development Area B allows for the construction of accessory structures only, and Development Area C provides for limited landscaping and on-grade accessory structures. (Refer to Attachment No. PC 4.)

For properties located along Dolphin Terrace, including the subject property, Development Area A extends from the front property line adjacent to Dolphin Terrace to a setback line of 10 feet from the top of slope. Development Area B is defined by the Development Area A limit (10-foot setback from the top of slope) to a line that is 13 feet below the top of curb elevation. Development Area C occurs below Development Area B on the sloping portion of the property. (Refer to Attachment No. PC 5)

Portions of the patio terrace are non-conforming because they extend up to 12 feet into Development Area C. Since the proposed caissons will be placed within Development Area C, approval of the site development review is necessary. The proposed caisson system has been designed to mitigate the slope distress and has received preliminary approval from the Building Division.

DISCUSSION

General Plan/Coastal Land Use Plan/Zoning

The site is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located in the R-1, B (Single-Unit Residential Detached, Bluff Overlay) zoning district. The proposed project requires a site development review to allow an increase in the development area permitted by the Bluff Overlay to allow for the construction of caissons to support the existing house and accessory structures.

Additionally, the house is located within the categorical exclusion area of the coastal zone and is designated within the RSD-A land use category of the Local Coastal Program, Coastal Land Use Plan. The proposed caissons are exempt from Coastal Commission review because no expansion of intensification of the existing single-family residence is proposed and the project involves the repair and maintenance of the existing development.

Bluff Overlay

In accordance with Section 20.28.040 (Bluff (B) Overlay District) of the Zoning Code, the Planning Commission must make the following findings for approval of an increased development area:

- 1. The increased bluff development area will ensure a slope stability factor of safety greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff or a factor of safety greater than or equal to 1.1 for the seismic condition of the bluff or canyon, whichever is farther landward;*
- 2. The increased bluff development area will provide adequate protection from the erosion factors for the economic life of the development;*
- 3. The increased bluff development area will be compatible and consistent with surrounding development; and*
- 4. The increased bluff development area will not have an impact on public views, sensitive habitat areas, and is not otherwise detrimental to the general public health and welfare.*

The attached calculations provided by the geotechnical engineer (Attachment No. PC 6) demonstrate that the proposed caissons are necessary in order to ensure a slope stability factor¹ of safety greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff. The caissons will provide adequate protection of the house and surrounding accessory structures for the economic life of the development. The proposed caissons are consistent with the surrounding development in the Irvine Terrace neighborhood, which is characterized by varying degrees of development along the bluff area adjacent to Bayside Drive. Refer to the Attachment No. PC 7 for photos of the site and adjacent properties between Dolphin Terrace and Bayside Drive. The proposed caissons will occur below grade and therefore will not interfere with public views, sensitive habitat areas, or otherwise interfere with the general public health and welfare.

¹ Slope stability factor is a term that describes the structural capacity of a system beyond the expected or actual loads. The slope stability analysis assesses the safe and economic design of a human-made or natural slope and the equilibrium conditions.

Staff believes that the facts are in evidence of support of the required findings to increase the bluff development area and allow for the proposed caissons to maintain the stability of the structures above the bluff.

Site Development Review

In accordance with Section 20.52.080 (Site Development Review) of the Zoning Code, the Planning Commission must also make the following findings for approval of a site development review:

1. *The proposed development is allowed within the subject zoning district;*
2. *In compliance with all of the applicable criteria identified in Subparagraph C.2.c:*
 - 1) *Compliance with this Section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;*
 - 2) *The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent development; and whether the relationship is based on standards of good design;*
 - 3) *The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;*
 - 4) *The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;*
 - 5) *The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and*
 - 6) *The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protections); and*
3. *The proposed development is not detrimental to the harmonious and orderly growth of the City, or endanger jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.*

The existing development is consistent with its General Plan land use designation and the zoning district. The Zoning Code allows relief from the Bluff Overlay regulations for development, such as the proposed caissons, which is necessary to ensure slope

stability. The proposed caissons will occur below grade and will not increase the bulk, scale, or aesthetic treatment within Development Area C of the Bluff Overlay. The existing development along the slope provides a significant amount of landscaping and changes to the existing landscaping are not proposed. Conditions of approval have been added for the removal of the existing stairway within the Bayside Drive right-of-way. The Public Works Department does not allow these types of structures along Bayside Drive due to the increased occurrence of jaywalking attributed to these types of stairways. In addition, the project has been conditioned to require the curb drains along Bayside Drive to be modified to add an energy reducer to ensure that the discharge stays within the flow line. The project will not impede existing access to the subject property, public views, or result in any additional hazard to public convenience, health, interest, safety, or general welfare in the neighborhood.

Alternatives

Staff believes the findings for approval can be made for the proposed caissons and the facts in support of the required findings are presented in the draft resolution (Attachment No. PC 1). The following alternatives are available to the Planning Commission:

1. The Planning Commission may suggest specific changes that are necessary to alleviate any concerns. If any additional requested changes are substantial, the item could be continued to a future meeting. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval of both structures, the Planning Commission may deny the application and provide facts in support of denial to be included in the attached draft resolution for denial (Attachment No. PC 2.)

Environmental Review

The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures).

The proposed development involves the construction of accessory caissons for the existing single-family residence within Development Area C of the Bluff Overlay District. Therefore, the proposed project qualifies for an exemption under Class 3.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this

hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:


Makana Nova, Assistant Planner

Submitted by:


Gregg Ramirez, Acting Planning Manager

ATTACHMENTS

- PC 1 Draft Resolution for Approval with Findings and Conditions
- PC 2 Draft Resolution for Denial
- PC 3 Tract No. 2334
- PC 4 Section 20.28.040 (Bluff (B) Overlay District) of the Zoning Code
- PC 5 Bluff Overlay Map B-2 (Irvine Terrace, Dolphin Terrace)
- PC 6 Geotechnical Engineer's Calculations and Findings
- PC 7 Site Photos
- PC 8 Project plans

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Tmpl: 06/22/11

Attachment No. PC 1

Draft Resolution for Approval with
Findings and Conditions

RESOLUTION NO. #####

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF NEWPORT BEACH APPROVING SITE DEVELOPMENT
REVIEW NO. SD2011-001 FOR PROPERTY LOCATED AT 1401
DOLPHIN TERRACE (PA2011-129)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Tien and Amy Nguyen, with respect to property located at 1401 Dolphin Terrace, and legally described as Lot 4 of Tract No. 2334 requesting approval of a site development review.
2. The applicants request approval of a site development review to allow an increased development area within the Bluff Overlay District for the construction of 16 caissons within Development Area C for safety and slope stability of an existing residence and patio terrace.
3. The subject property is located within the R-1, B (Single-Unit Residential, Bluff Overlay) zoning district and the General Plan land use element category is RS-D (Single-Unit Residential Detached).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-A (Single-Unit Residential Detached).
5. A public hearing was held on September 22, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures).
2. The proposed development involves the construction of accessory caissons for the existing single-family residence within Development Area C of the Bluff Overlay District. Therefore, the proposed project qualifies for an exemption under Class 3.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.28.040 (Bluff (B) Overlay District) of the Zoning Code, the Planning Commission must make the following findings for approval of an increased development area through the approval of a Site Development Review:

Finding:

- A. *The increased bluff development area will ensure a slope stability factor of safety greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff or a factor of safety greater than or equal to 1.1 for the seismic condition of the bluff or canyon, whichever is farther landward;*

Facts in Support of Finding:

- A-1. The increased bluff development area will allow for the installation of 16 caissons. The calculations provided by the geotechnical engineer demonstrate that the installation of the caissons at this location will ensure a slope stability factor of safety greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff or a safety factor of safety greater than or equal to 1.1 for the seismic condition of the bluff.

Finding:

- B. *The increased bluff development area will provide adequate protection from the erosion factors for the economic life of the development;*

Facts in Support of Finding:

- B-1. As demonstrated by the calculations provided by the geotechnical engineer, the proposed caissons are sufficient to provide a slope stability factor of greater than 1.5, which is considered adequate protection from the erosion factors for the economic life of the existing single-family residence and accessory structures on the subject property.

Finding:

- C. *The increased bluff development area will be compatible and consistent with surrounding development; and*

Facts in Support of Finding:

- C-1. The existing residence is nonconforming to the bluff development standards, which were adopted after the development of the primary residence and accessory structures. A number of properties along the bluff side of Bayside Drive have existing accessory structures such as pools, fences, stairways, and solar panels that are nonconforming to the bluff development standards. Therefore, the proposed

development is consistent with surrounding development along the bluff side of Bayside Drive.

- C-2. The installation of caissons within the bluff development setback area are necessary for the safety and stability of the subject property and surrounding development.
- C-3. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.

Finding:

- D. *The increased bluff development area will not have an impact on public views, sensitive habitat areas, and is not otherwise detrimental to the general public health and welfare.*

Facts in Support of Finding:

- D-1. The proposed caissons will be installed below grade and will not result in a negative impact to public or private views.
- D-2. The bluff where development is proposed is not located within an environmental study area. While vegetation may be temporarily removed for the installation of the caissons they will be located below grade and will not negatively impact the growth of vegetation on the slope area.

In accordance with Section 20.52.080 (Site Development Review) of the Zoning Code, the Planning Commission must also make the following findings for approval of a site development review:

Finding:

- E. *The proposed development is allowed within the subject zoning district;*

Facts in Support of Finding:

- E-1. The site is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element. This designation allows for a range of detached single-family residential dwelling units; each located on a single legal lot, and does not include condominiums or cooperative housing. The existing single-family residence is consistent with this land use designation. The proposed project requires a site development review to allow the proposed caissons within Bluff Development Area C.
- E-2. The existing residence is compatible with the land uses permitted within the surrounding neighborhood. The new caissons will improve slope stability to maintain the existing structures on-site.

E-3. The subject property is not part of a specific plan area.

Finding:

- F. *The proposed development is in compliance with all of the applicable criteria identified in Subparagraph C.2.c:*
- a. *Compliance with this Section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;*
 - b. *The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent development; and whether the relationship is based on standards of good design;*
 - c. *The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;*
 - d. *The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;*
 - e. *The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and*
 - f. *The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protections); and*

Facts in Support of Finding:

- F-1. The site is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element. The subject property is located on the R-1, B (Single-Unit Residential Detached, Bluff Overlay) zoning district. The RS-D land use designation and the R-1 zoning district are intended to provide for areas appropriate for a range of detached single-family residential dwelling units; each located on a single legal lot. The existing single-family residence on the subject property is consistent with these designations. The proposed project requires a site development review to allow an increase in development area permitted by the Bluff Overlay to allow for the construction of caissons to support the existing principal and accessory structures.
- F-2. The development of the proposed caissons in the bluff development setback area will ensure the harmonious and safe relationship of the existing residence to the accessory structures on-site and development on the adjacent properties. The proposed project will increase the slope stability of structures developed on the slope along Bayside Drive.

- F-3. The proposed development within the development setback Area C will occur below grade and will not result in additional building bulk or visible structures along the existing coastal bluff.
- F-4. Adequate public and emergency vehicle access, public services, and utilities are provided to the subject property. Any additional utility upgrades required for the change in occupancy will be required at plan check and have been included in the conditions of approval.
- F-5. While the proposed project may result in the temporary removal of vegetation along the coastal bluff for the installation of the caissons, this condition will not be permanent and vegetation will be allowed to grow within the bluff setback area following the completion of construction.
- F-6. Public views will not be impacted because the proposed construction will occur below grade. The project-site occurs below the public right-of-way, and the project site is not designated as a public view point by the City's General Plan.

Finding:

- G. *The proposed development is not detrimental to the harmonious and orderly growth of the City, or endanger jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.*

Facts in Support of Finding:

- G-1. The project includes conditions of approval to ensure that potential conflicts are minimized to the greatest extent possible. The existing railroad ties within the right-of-way along Bayside Drive will be removed to reduce the occurrence of private access and jaywalking. The curb drains along Bayside Drive will be modified to add an energy reducer and ensure that the discharge stays within the flow line.
- G-2. The tenant improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

- 1. The Planning Commission of the City of Newport Beach hereby approves Site Development Review No. SD2011-001, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
- 2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance

with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 22nd DAY OF SEPTEMBER, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Charles Unsworth, Chairman

BY: _____
Bradley Hillgren, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL
(Project-specific conditions are in italics)

PLANNING

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Site Development Review No. SD2011-001 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Site Development Review.
5. This Site Development Review may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
6. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Site Development Review or the processing of a new site development review.
7. Should the property be sold or otherwise come under different ownership, any future owner(s) or assignee(s) shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
8. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
9. A copy of this approval letter shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
10. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Site Development Review file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The

plans shall accurately depict the elements approved by this Site Development Review and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

11. *All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.*
12. *Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and between the hours of 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.*
13. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Nguyen Residence Site Development Review** including, but not limited to, the **Site Development Review No. SD2011-001 (PA2011-129)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Fire Department and Building Division Conditions

14. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. A building permit is required for the proposed caissons. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Complete sets of drawings including architectural, electrical, mechanical, and plumbing plans shall be required at plan check.
15. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:
 - Dust Control
 - Water all active construction areas at least twice daily.
 - Cover all haul trucks or maintain at least two feet of freeboard.

- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment

Off-Site Impacts

- Encourage car pooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

Public Works Conditions

16. *Prior to final of building permits, the stairs and wall within the public right-of-way of Bayside Drive shall be removed, subject to review and approval of the Public Works Department. Structural encroachments are not permitted within the public right-of-way.*
17. *Prior to final of building permits, a modification of the curb drains along Bayside Drive shall be required to add an energy reducer and ensure that the discharge stays within the flow line, subject to review and approval of the Public Works Department.*
18. Traffic control and truck route plans shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagman.

Attachment No. PC 2

Draft Resolution for Denial

RESOLUTION NO. ####

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF NEWPORT BEACH DENYING SITE DEVELOPMENT
REVIEW NO. SD2011-001 FOR PROPERTY LOCATED AT 1401
DOLPHIN TERRACE (PA2011-129)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Tien and Amy Nguyen, with respect to property located at 1401 Dolphin Terrace, and legally described as Lot 4 of Tract No. 2334 requesting approval of a site development review.
2. The applicants request approval of a site development review to allow an increased development area within the Bluff Overlay District for the construction of 16 caissons within Development Area C for safety and slope stability of an existing residence and patio terrace.
3. The subject property is located within the R-1, B (Single-Unit Residential, Bluff Overlay) zoning district and the General Plan land use element category is RS-D (Single-Unit Residential Detached).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-A (Single-Unit Residential Detached).
5. A public hearing was held on September 22, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.28.040 (Bluff (B) Overlay District) of the Zoning Code, an increase in the development area for properties located within the Bluff Overlay zoning district require the approval of a site development review. The Planning Commission may approve a site development review only after making each of the required findings set forth in Section 20.48.040 (Bluff (B) Overlay District) and Section 20.52.080 (Site Development Review) In

this case, the Planning Commission was unable to make the required findings based upon the following:

1. The design, location and size of the proposed development are not compatible with the allowed uses and development in the vicinity. The proposed structures are not necessary to ensure the slope stability and safety of the existing development on the subject property.
2. The site is not physically suitable in terms of design, location, shape and size . The Planning Commission does not consider the existing structure on the subject property a unique circumstance resulting in any necessity to warrant approval of the proposed project.
3. The proposed development is neither required by code nor necessary for the enjoyment of the property. If desired, and as shown through previously approved building permits, the subject property can be utilized to comply with the requirements of the Newport Beach Municipal Code.
4. The subject property is consistent in orientation, size and shape with typical lots in this neighborhood which are designed with single-family residential development. The proposed development could prove detrimental to the Irvine Terrace neighborhood. The proposed development would be detrimental to the harmonious and orderly growth of the City.
5. Granting of the site development review would provide special privileges to the subject property as the City has required bluff development regulations established by the Zoning Code for other properties in similar areas.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies Site Development Review No. SD2011-001.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 22nd DAY OF SEPTEMBER, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Charles Unsworth, Chairman

BY: _____
Bradley Hillgren, Secretary

Attachment No. PC 3

Tract No. 2334

Attachment No. PC 4

Section 20.28.040 (Bluff (B) Overlay
District) of the Zoning Code

20.28.040 – Bluff (B) Overlay District

- A. Applicability.** This Section applies to lots located in the Bluff (B) Overlay District as indicated on the Zoning Map. All development shall comply with the applicable development standards (e.g. setbacks, height) of the underlying zoning district in addition to the standards provided in this Section. In situations where an inconsistency occurs between the development standards of the underlying zoning district and the standards in this Section the most restrictive standard shall prevail.
- B. Uses allowed.** Land uses allowed in the B overlay district are all those uses allowed in the underlying zoning district.
- C. Development area defined.** For the purpose of this Section the development area of a lot is an area delineated for the purpose of regulating the placement and location of structures. Each lot within the B overlay district shall be divided into two or more development areas. Development areas are delineated on the Development Area Maps in Part 8 and are consistent with the development areas listed in Subsection D, below. The setbacks provided in Tables 2-2 and 2-3 in Section 20.18.030 (Residential Zoning Districts Development Standards) are not used to determine development areas, but are only used to determine the maximum floor area limit for the lot, if applicable.
- 1. Development Area A - Principal and accessory structures.** Area A allows for the development and use of principal and accessory structures. Accessory structures allowed in Areas B and C are allowed in Area A.
 - 2. Development Area B - Accessory structures.** Area B allows for the development and use of accessory structures listed below. Principal structures are not allowed.
 - a. Allowed accessory structures.** The following accessory structures are allowed in Area B:
 - (1) accessory structures allowed in Area C are allowed within Area B.
 - (2) barbeques
 - (3) decks
 - (4) detached or attached patio covers (solid or lattice)
 - (5) fences, walls, and retaining walls in compliance with Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls)
 - (6) fireplaces and fire pits
 - (7) gazebos
 - (8) outdoor play equipment
 - (9) patios
 - (10) platforms
 - (11) porches
 - (12) spas and hot tubs
 - (13) swimming pools
 - (14) terraces
 - (15) similar structures

- b. **Development standards for accessory structures.** The following development standards apply to Area B:
 - (1) Covered accessory structures (e.g., trellis, gazebos, patio covers) shall not exceed 12 feet in height from existing grade or finished grade or exceed 400 square feet in cumulative total area.
 - (2) Retaining walls shall comply with Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).
 - 3. **Development Area C – Limited accessory structures.** Area C allows for the development and use of limited accessory structures. The following accessory structures are allowed in Area C:
 - a. benches
 - b. drainage devices
 - c. guardrails and handrails required by building code
 - d. landscaping/irrigation systems
 - e. on-grade trails
 - f. on-grade stairways
 - g. property line fences and walls, not including retaining walls
 - h. underground utilities
 - i. similar structures.
- D. **Location of development areas.** The development areas are listed below and depicted in the referenced map exhibits located in Part 8. The placement of structures and grading is limited by development areas as defined in this Section and in Subsection C, above. The development areas for each parcel are polygons established by the property lines and the following development lines. (See Part 8, Map Exhibits 1-8) All contour lines refer to NAVD88 contours.
 - 1. **Map 1 - Kings Place**
 - a. Kings Place (104-112 and 204-224)
 - (1) Development Area A. Between the front property line adjacent to Kings Place and the development line established at an elevation that is 16 feet below the average elevation of the top of the curb adjacent to the lot.
 - (2) Development Area C. All portions of the lot not located in Area A.
 - b. Kings Place (116-200)
 - (1) Development Area A. As indicated by the specified distance (in feet) from the front property line on the development area map.
 - (2) Development Area B. All portions of the lot not located in Area A or C.

- (3) Development Area C. Between the down slope boundary of Area A and a development line established at the 26-foot contour line*.
- (4) Additional development standards. Sport courts are allowed in Area B. Enclosed accessory structures that do not exceed 12 feet in height from existing or finished grade and do not exceed 400 square feet (cumulative) in area shall be allowed in Area B.

2. Map 2 - Irvine Terrace

a. Dolphin Terrace

- (1) Development Area A. Between the front property line adjacent to Dolphin Terrace and a 10-foot setback from the top of the existing bluff.
- (2) Development Area B. Between the 10-foot setback from the top of the existing bluff and a line established at an elevation that is 13 feet below the average elevation of the top of the curb adjacent to the lot.
- (3) Development Area C. All portions of the lot not located in Areas A and B.

3. Map 3 - Irvine Terrace

a. Bayadere Terrace (1607)

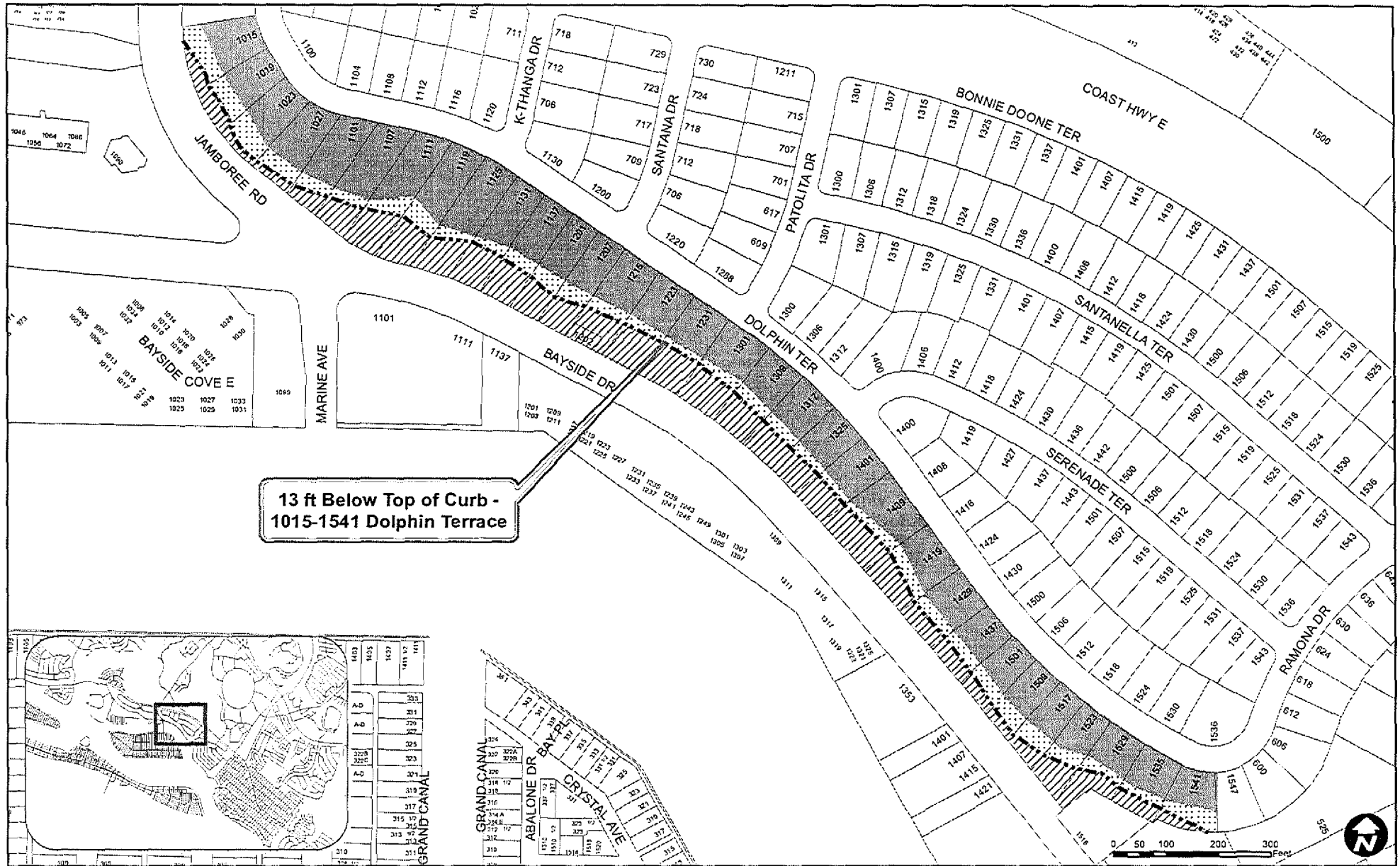
- (1) Development Area A. The extent of the existing principal structure.
- (2) Development Area B. Between the extent of the existing development and a development line established at an elevation that is 13 feet below the average elevation of the top of the curb adjacent to the lot.
- (3) Development Area C. All portions of the lot not located in Areas A and B.

b. Bayadere Terrace (1615-1638)

- (1) Development Area A. Between the front property line adjacent to Bayadere Terrace and the 48-foot contour line*.
- (2) Development Area B. Between the 48-foot contour line* and a development line established at an elevation that is 13 feet below the average elevation of the top of the curb adjacent to the lot.
- (3) Development Area C. All portions of the lot not located in Areas A and B.

Attachment No. PC 5

Bluff Overlay Map B-2 (Irvine Terrace,
Dolphin Terrace)



B-2 Irvine Terrace - Dolphin Terrace

- Development Areas Delineated By:
- Specified Distance from Front Property Line
 - - - Specified Distance Below Top of Curb
 - - - Specified Contour
 - ▨ Development Area A
 - ▤ Development Area B
 - ▧ Development Area C

Attachment No. PC 6

Geotechnical Engineer's Calculations
and Findings

**RECEIVED BY
PLANNING DEPARTMENT**

July 18, 2011

W.O. 260809

JUL 25 2011

Dr. Tien Nguyen
1401 Dolphin Terrace
Corona Del Mar, California,

CITY OF NEWPORT BEACH

Subject: Memorandum Response, Planning Division
Letter 7-711, Distressed Rear Yard, 1401
Dolphin Terrace, Newport Beach, California

Reference:

1. Limited Geotechnical Investigation, Distressed Rear Yard Planter Boxes: 1401 Dolphin Terrace, Corona Del Mar, California By STRATATECH, dated December 9, 2009, W.O. 260809
2. Geotechnical Engineering Response to Geotechnical Review Sheet dated March 11, 2011, STRATATECH, Inc., Dated April 5, 2011.

Dr. Nguyen:

Pursuant to your request, this letter has been prepared to address item 1 of the July 7, 2011 letter prepared by Nakana Nova of the Community Development Department Planning Division.

In her letter, Ms. Nova asks *"Please provide calculations demonstrating the slope stability of the land above the caissons after the proposed development is constructed."*

DISCUSSION:

The purpose of the proposed caisson wall is to stabilize the rear patio/planter area that is located at the top of an existing slope that descends toward Bayside Drive. The upper portion of the slope is exhibiting obvious signs of distress. The existing slope was analyzed and a safety factor of less than $FS=1.5$ was determined for the near surface descending slope and the patio area. A critical safety factor of 1.5 static and 1.1 seismic was identified within the cross section of the unstable slope. The earth materials below the critical safety factor line was then used to provide stable bearing material for the design of the proposed soldier pile stabilization system. This proposed soldier pile system is designed to stabilize the patio area and planters located landward from the top of the bluff.

STRATA-TECH, INC.
G E O C O N S U L T A N T S

Dr. Tien Nguyen
Response to Planning Review letter

2

W.O. 260809
July 18, 2011

The static and seismic stability analysis is presented in the appendix section of the referenced report. A final soldier pile design criterion is presented in references 2. Since the design pressures of the soldier piles was based using a safety factor of 1.5, the proposed soldier piles will increase the bluff top behind the piles to a safety factor greater than or equal to $FS = 1.5$.

Please contact this office with questions or discussion.

Respectfully
submitted:
STRATA-TECH, Inc.



Roland Acuña
CEG 2113



Larry Finley
RCE 46606



STRATA-TECH, INC.
G E O C O N S U L T A N T S

714-521-5611
562-427-8099
FAX 714-521-2552

7372 Walnut Avenue, Unit F, Buena Park, California 90620

August 20, 2011

W.O. 260809

Dr. Tien Nguyen
1401 Dolphin Terrace
Corona Del Mar, California,

Subject: Geotechnical Engineering Memorandum to
Planning Review Sheet dated March 11, 2011

Reference:

1. STRATA-TECH, Inc., dated December 9, 2009, Limited Geotechnical Investigation, and Distressed Rear Yard Planter Boxes: 1401 Dolphin Terrace, Corona Del Mar, California W.O. 260809.

Gentlemen:

As instructed by you, STRATA-TECH, Inc. is responding to questions by planning regarding the Geotechnical Review. A meeting with Dr. Bagahi, geotechnical reviewer for Newport Beach on 8-17-11 is the basis for the following submittal:

Attached please find calculations demonstrating the post stabilization factor of safety is greater than $F.S. = 2.00$.

STRATA-TECH, INC.
G E O C O N S U L T A N T S

Dr. Tien Nguyen
Geotechnical Engineering Response

2

W.O. 260809
August 20, 2011

Respectfully submitted:
STRATA-TECH, Inc.

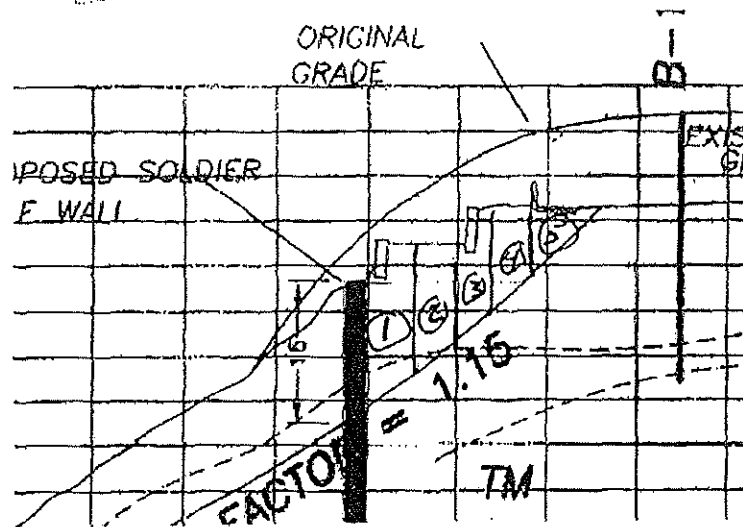
Roland Acuna, PG
President

Larry Finley
RCE 46606



Attachments:
Stability calculations upslope from proposed piles
Pile design load and post construction F.S. \geq 2.00
Portion of cross section B-B

PILE DESIGN LOAD, BASED ON SLOPE STABILITY



$$F.S. \geq 2.00$$

FROM slope stability:

$$F = 14.8 \times 2.00 - 22.5 \tan 24 - 35(0.2) \\ = 5.2 \text{ kip}$$

$$EFp = \frac{5200(2)}{16^2} = 40.62 \text{ pcf}$$

$$40.62 \text{ pcf} < 85 \text{ pcf} \therefore \underline{\underline{OK}}$$

Geotechnical Engineering Investigation
1401 Dolphin Terrace
Newport Beach, California

Work Order 260809

0

STRATA - TECH, INC.

Shear Strength	Material 1			
Cohesion, psf	200			
Friction Angle, ϕ	24			
$\tan \phi$	0.445			
Unit Weight, pcf	120			

Segment	Area (Ft ²)	Weight of Segment (Kips/LF)	Slide Plane Angle	$\sin \alpha$	$\cos \alpha$	Driving Force $W \sin \alpha$	Normal Force $W \cos \alpha$	Length (Feet)
1	75	9.0	30	0.500	0.866	4.5	7.8	7
2	48	5.8	31	0.515	0.857	3.0	4.9	5
3	41	4.9	32	0.530	0.848	2.6	4.2	5
4	32	3.8	37	0.602	0.799	2.3	3.1	6
5	29	3.5	43	0.682	0.731	2.4	2.5	12
Σ						14.8	22.5	35

$$\begin{aligned} \text{F.S.} &= \frac{\Sigma CL + \Sigma W \cos \alpha}{\Sigma W \sin \alpha} \\ &= \frac{7.0 + 10.0}{14.8} \\ &= \frac{17.0}{14.8} = 1.15 \end{aligned}$$

Plate No.

STRATA - TECH, INC.

Shear Strength	MATERIAL 1			
Cohesion, psf	260			
Friction Angle, ϕ	24			
$\tan \phi$	0.445			
Unit Weight, pcf	120			

Section: A-A'

Segment	Area (Ft ²)	Weight of Segment (Kips/LF)	Slide Plane Angle	$\sin \alpha$	$\cos \alpha$	Driving Force W Sin α	Normal Force W Cos α	Length (Feet)
A	75	9.0	30	0.500	0.866	4.5	7.8	7
B	48	5.8	31	0.515	0.857	3.0	4.9	5
C	41	4.9	32	0.530	0.848	2.6	4.2	5
D	32	3.8	37	0.602	0.799	2.3	3.1	6
E	29	3.5	43	0.682	0.731	2.4	2.5	12
Σ						14.8	22.5	

$$\Sigma CL + (\Sigma W \cos \alpha - K \Sigma W \sin \alpha) \tan \phi$$

$$\begin{aligned} \text{F.S.} &= \frac{\Sigma W \sin \alpha + K \Sigma W \cos \alpha}{\Sigma W} \\ &= \frac{9.1 + 9.0}{18.1} \quad (K = 0.15) \\ &= \frac{18.1}{18.1} = 1.00 \end{aligned}$$

Plate No.

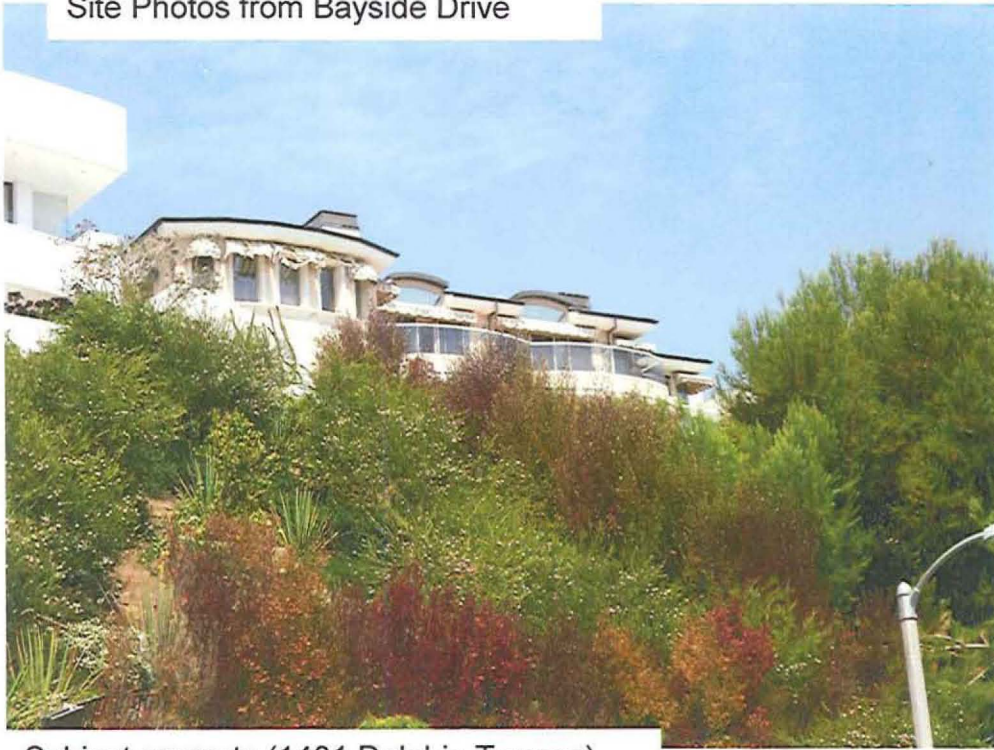
STRATA - TECH, INC.

Attachment No. PC 7

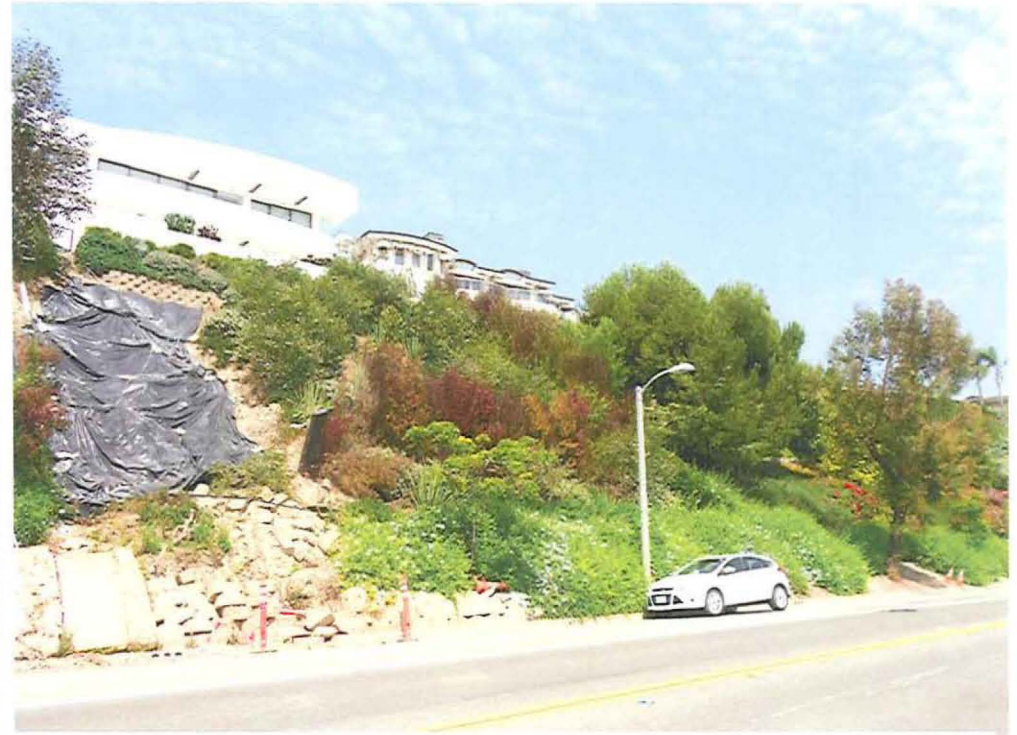
Site Photos



Site Photos from Bayside Drive



Subject property (1401 Dolphin Terrace)



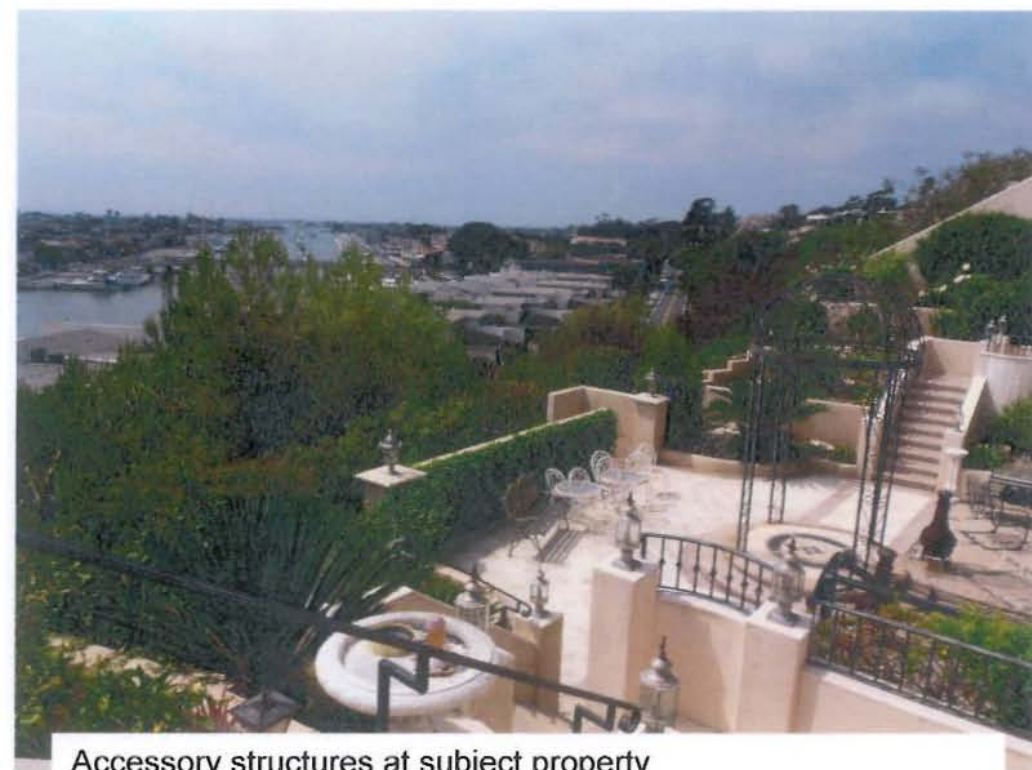
1325 Dolphin Terrace with subject property beyond



Slope view of subject property (1401 Dolphin Terrace)



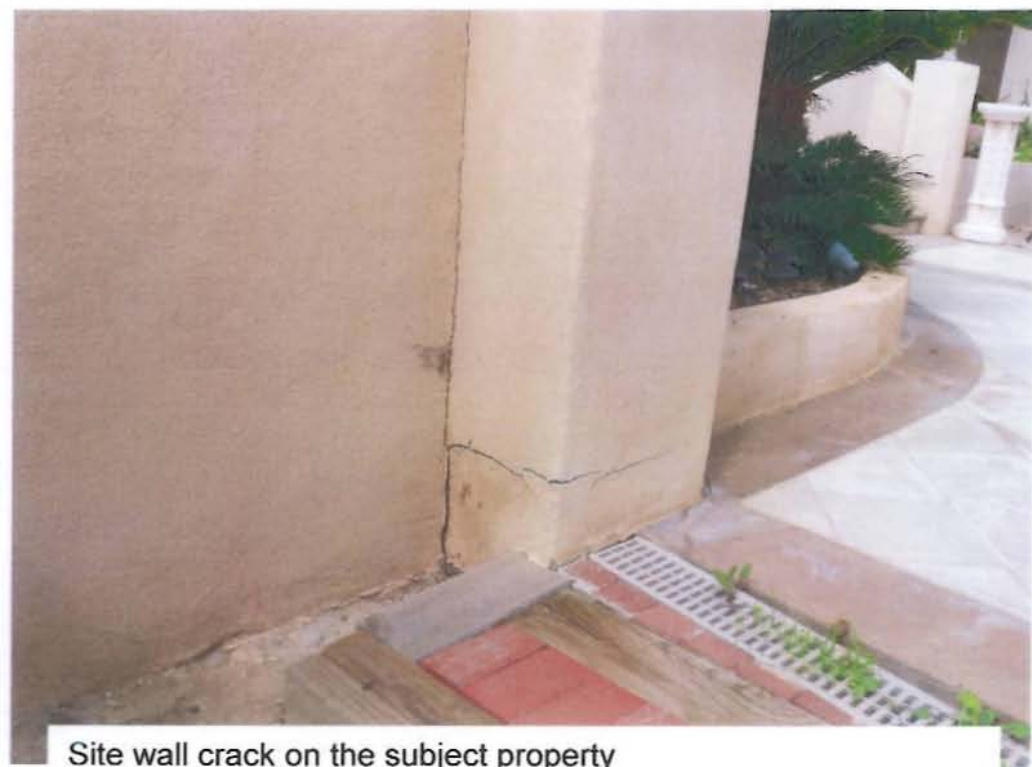
Subject property and 1409 Dolphin Terrace beyond



Accessory structures at subject property



Site wall slipping on the subject property



Site wall crack on the subject property

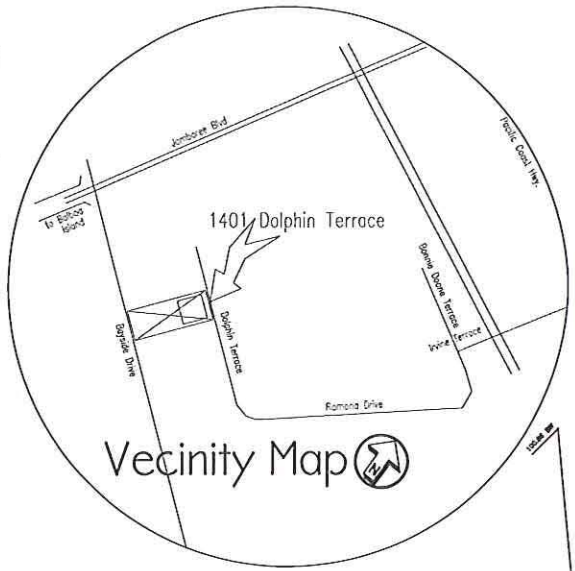
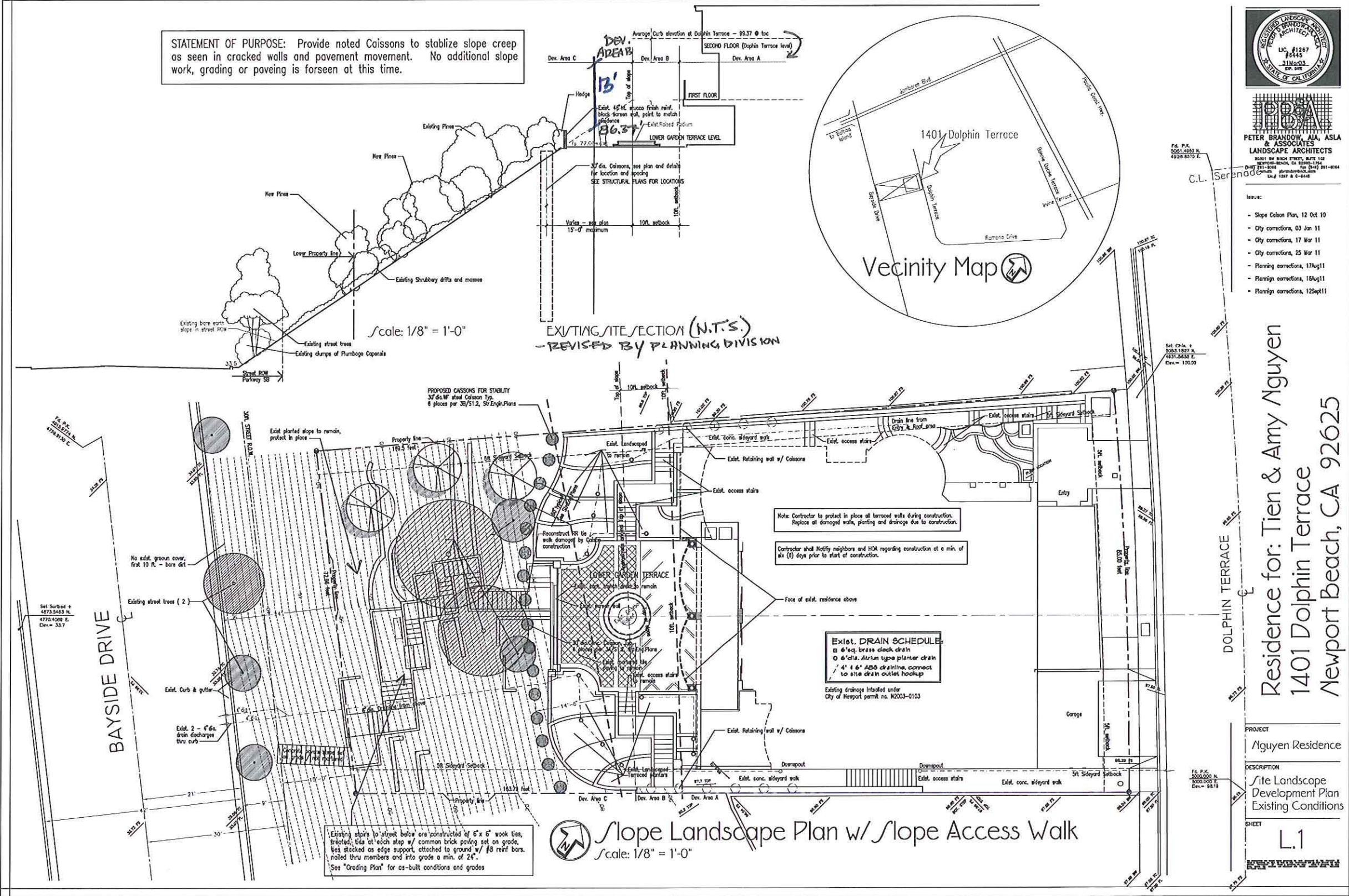


Patio terrace cracking on the subject property

Attachment No. PC 8

Project plans

STATEMENT OF PURPOSE: Provide noted Coissons to stabilize slope creep as seen in cracked walls and pavement movement. No additional slope work, grading or paving is forseen at this time.



EXISTING SITE SECTION (N.T.S.)
-REVISED BY PLANNING DIVISION

Note: Contractor to protect in place all terraced walls during construction.
Replace all damaged walls, planting and drainage due to construction.
Contractor shall Notify neighbors and HOA regarding construction at a min. of six (6) days prior to start of construction.

EXIST. DRAIN SCHEDULE:
Ø 6" eq. brass deck drain
Ø 6" dia. Alum type planter drain
Ø 4" x 6" ABS drainline, connect to site drain outlet hookup
Existing drainage installed under City of Newport permit no. N0003-5103

Slope Landscape Plan w/ Slope Access Walk
Scale: 1/8" = 1'-0"



PETER BRANDOW, AIA, ASLA & ASSOCIATES
LANDSCAPE ARCHITECTS
30351 Via Roca Street, Suite 102
Newport Beach, CA 92660-1794
Phone: 949-261-3044 Fax: 949-261-3044
Email: pbrandow@aol.com
Lic. #1287 & C-4548

- Issues:
- Slope Coisson Plan, 12 Oct 10
 - City corrections, 03 Jan 11
 - City corrections, 17 Mar 11
 - City corrections, 25 Mar 11
 - Planning corrections, 17 Aug 11
 - Planning corrections, 18 Aug 11
 - Planning corrections, 12 Sept 11

Residence for: Tien & Amy Nguyen
1401 Dolphin Terrace
Newport Beach, CA 92625

PROJECT	Nguyen Residence
DESCRIPTION	Site Landscape Development Plan Existing Conditions
SHEET	L.1